

**STATE OF LOUISIANA  
DIVISION OF ADMINISTRATIVE LAW  
ETHICS ADJUDICATORY BOARD**

**BOARD OF ETHICS**

**\* DOCKET NO. 2020-5769-ETHICS-A**

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**IN THE MATTER OF**

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**CARL (JOSEPH CARL) HARDY**

**\* AGENCY ID NO. 5120-042**

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**DECISION AND ORDER**

The Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, requested an adjudicatory hearing to have the Ethics Adjudicatory Board determine whether Carl (Joseph Carl) Hardy<sup>1</sup> failed to file his 10-P campaign finance disclosure report by the sixth day after it was due, and his 10-G campaign finance disclosure report by the eleventh day after it was due, in connection with his 2019 candidacy for St. Landry Parish Sheriff. The Louisiana Board of Ethics proved by clear and convincing evidence that Joseph Carl Hardy failed to file these campaign finance disclosure reports as alleged. The Louisiana Board of Ethics is authorized to impose an additional civil penalty not to exceed \$10,000 upon Joseph Carl Hardy for each campaign finance disclosure report as allowed by La. R.S. 18:1505.4(A)(4)(a) and (b).

**APPEARANCES**

An adjudicatory hearing in this matter was conducted on October 29, 2020, in Baton Rouge, Louisiana, before Panel A of the Ethics Adjudicatory Board.<sup>2</sup> Charles E. Reeves, Jr., appeared as counsel on behalf of the Board of Ethics. Although duly noticed, Joseph Carl Hardy

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<sup>1</sup> After reviewing the records submitted by the Louisiana Board of Ethics, this panel takes notice that Mr. Hardy's full legal name is Joseph Carl Hardy.

<sup>2</sup> The panel consisted of administrative law judges Sherlyn D. Shumpert (presiding), A. Brock Avery, and Lance B. Vinson.

did not appear for the hearing.<sup>3</sup>

### **STATEMENT OF THE CASE**

In connection with his 2019 candidacy for St. Landry Parish Sheriff, the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure (BOE), imposed civil penalties upon Joseph Carl Hardy (Respondent) for failing to file two campaign finance disclosure reports by their deadlines. One report was due on the tenth day before the primary election (the 10-P report), and one report was due on the tenth day before the general election (the 10-G report). The BOE then requested an adjudicatory hearing to have the Ethics Adjudicatory Board (EAB) determine whether Respondent failed to file his 10-P report by the sixth day after it was due and his 10-G report by the eleventh day after it was due, which may subject him to an additional civil penalty not to exceed \$10,000 for each report, as provided by La. R.S. 18:1505.4(A)(4)(a) and (b).

Counsel for the BOE offered nine exhibits during the hearing, all of which were admitted into evidence. Counsel presented the case on behalf of the BOE, the record was closed, and the matter was submitted for decision.

This adjudication is conducted in accordance with the Code of Governmental Ethics, La. R.S. 42:1101, *et seq.*, the Campaign Finance Disclosure Act (CFDA), La. R.S. 18:1481, *et seq.*, the Administrative Procedure Act, La. R.S. 49:950, *et seq.*, and the enabling legislation of the Division of Administrative Law, La. R.S. 49:991, *et seq.*

### **FINDINGS OF FACT**

Respondent qualified as a candidate for the office of St. Landry Parish Sheriff.<sup>4</sup> The

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<sup>3</sup> BOE Exhibit 9. The hearing notice was mailed on August 12, 2020, by the Administrative Hearings Clerk for the Division of Administrative Law to Carl (Joseph Carl) Hardy at: 439 Pershing Highway, Apartment 12, Opelousas, Louisiana, 70584-5148.

<sup>4</sup> BOE Exhibit 2.

primary election was held on October 12, 2019, and the general election was held on November 16, 2019.<sup>5</sup> Respondent was required to file his 10-P report by October 2, 2019, and his 10-G report by November 6, 2019.<sup>6</sup>

On December 30, 2019, the BOE issued late fee assessment orders to Respondent ordering him to pay a statutory late fee of \$2,000 for each campaign finance disclosure report that he failed to file timely.<sup>7</sup> Respondent was notified in the letters accompanying the late fee assessment orders that he could be subject to “an additional \$10,000 penalty” for each of these unfiled reports.<sup>8</sup> The late fee assessment orders were mailed to Respondent by certified mail with return receipt requested at his last known address: 439 Pershing Highway, Apartment 12, Opelousas, Louisiana, 70584-5148.<sup>9</sup> The late fee assessment orders were delivered to Respondent on January 4, 2020.<sup>10</sup>

As of October 13, 2020, Respondent had not filed his 10-P report or his 10-G report.<sup>11</sup>

### **CONCLUSIONS OF LAW**

Respondent knowingly failed to file his 10-P report by the sixth day after the report was due, and he failed to file his 10-G report by the eleventh day after the report was due. For these failures, the BOE is authorized to impose additional civil penalties upon Respondent, as allowed by La. R.S. 18:1505.4(A)(4)(a) and (b).

Adjudicatory hearings under La. R.S. 18:1505.4(A)(4)(a-b) cover two kinds of campaign finance disclosure reports candidates must file in connection with elections. La. R.S. 18:1505.4(A)(4)(a) addresses reports that candidates must file between the time the candidate qualified for the election and the election day. La. R.S. 18:1505.4(A)(4)(b) addresses “other

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<sup>5</sup> BOE Exhibit 4.

<sup>6</sup> See La. R.S. 18:1495.4(B)(4) and (5); *see also* BOE Exhibit 4.

<sup>7</sup> BOE Exhibits 6-7.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> BOE Exhibit 8.

reports” candidates must file in connection with elections that fall outside the time frame in the previous provision. In either case, the BOE must prove by clear and convincing evidence<sup>12</sup> that the candidate knowingly<sup>13</sup> failed to file the report within the six or eleven-day period following when it was due, respectively. If, after conducting an adjudicatory hearing, the EAB determines that the candidate knowingly failed to file a required campaign finance disclosure report by the additional period that follows the statutory deadline, then the BOE may impose an additional civil penalty not to exceed \$10,000 upon the candidate for each report that he failed to timely file.<sup>14</sup>

### ***Report Filing Requirements and Fixed Statutory Penalty***

Respondent was a candidate for St. Landry Parish Sheriff, which is a district office.<sup>15</sup> Every candidate (or his campaign treasurer) for a district office is required to file certain campaign finance disclosure reports between the time the candidate qualified for the election and the election day.<sup>16</sup> Failure to timely submit the required report constitutes a violation of the CFDA.<sup>17</sup> Failure to submit a required report within three days after the final date for filing is presumptive evidence of intent to not file the report.<sup>18</sup>

As a candidate for a district office, Respondent was required to file a 10-P report by the tenth day prior to the primary election<sup>19</sup> and a 10-G report by the tenth day prior to the general election.<sup>20</sup> Respondent failed to file these reports. The BOE issued late fee assessment orders to

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<sup>12</sup> See La. R.S. 42:1141.5(C). “‘Clear and convincing evidence’, in general, means that the fact of guilt must be proven to a greater degree than by ‘a mere preponderance of the evidence’ but less than by ‘beyond a reasonable doubt.... The standard requires that the existence of the disputed fact be [h]ighly probable, that is, much more probable than its non-existence.’” *Louisiana State Bar Ass’n v. Edwins*, 329 So. 2d 437, 442 (La. 1976).

<sup>13</sup> La. R.S. 18:1505.4(A)(1).

<sup>14</sup> See La. R.S. 18:1505.4(A)(4)(a-b).

<sup>15</sup> See La. R.S. 18:1483(7) (defining “District office”).

<sup>16</sup> See La. R.S. 18:1495.4(A).

<sup>17</sup> La. R.S. 18:1505.1(B).

<sup>18</sup> La. R.S. 18:1505.1(A).

<sup>19</sup> La. R.S. 18:1495.4(B)(4).

<sup>20</sup> La. R.S. 18:1495.4(B)(5).

Respondent ordering him to pay the statutory late fee of \$2,000 for each report.<sup>21</sup>

***Assessment of Additional Civil Penalty***

With the benefit of the un rebutted statutory presumption of intent not to file, the BOE proved by clear and convincing evidence that Respondent knowingly violated the CFDA by failing to file his 10-P report by October 8, 2019,<sup>22</sup> and his 10-G report by November 17, 2019.<sup>23</sup> As a result, the BOE is authorized to impose upon Respondent an additional civil penalty not to exceed \$10,000 for each report as allowed by La. R.S. 18:1505.4(A)(4)(a) and (b).

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<sup>21</sup> See La. R.S. 18:1511.4.1(C) (providing individuals a right to appeal a final order for the payment of civil penalties).

<sup>22</sup> The 10-P report was due October 2, 2019; the third day after October 2, 2019, was October 5, 2019; and the sixth day after October 2, 2019, was October 8, 2019.

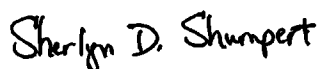
<sup>23</sup> The 10-G report was due November 6, 2019; the third day after November 6, 2019, was November 9, 2019; and the eleventh day after November 6, 2019, was November 17, 2019.

## ORDER

**IT IS ORDERED** that the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, is authorized to impose an additional civil penalty not to exceed \$10,000 upon Joseph Carl Hardy for failing to file his 10-P campaign finance disclosure report by the sixth day after it was due.

**IT IS ORDERED** that the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, is authorized to impose an additional civil penalty not to exceed \$10,000 upon Joseph Carl Hardy for failing to file his 10-G campaign finance disclosure report by the eleventh day after it was due.

Rendered and signed on December 10, 2020, in Baton Rouge, Louisiana.



Sherlyn D. Shumpert  
Presiding Administrative Law Judge  
Ethics Adjudicatory Board- Panel A



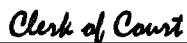
A. Brock Avery  
Administrative Law Judge  
Ethics Adjudicatory Board- Panel A



Lance B. Vinson  
Administrative Law Judge  
Ethics Adjudicatory Board- Panel A

### NOTICE OF TRANSMISSION OF DECISION OR ORDER

I certify that on Friday, December 11, 2020, I have sent a copy of this decision/order to all parties of this matter.



Division of Administrative Law

## **REVIEW RIGHTS**

Requests for rehearing, reopening, or reconsideration are subject to the procedures, timing requirements, and legal grounds provided in Louisiana Revised Statute 49:959, with the time for filing calculated pursuant to Louisiana Code of Civil Procedure article 5059. To determine your review rights, you should act promptly and seek legal advice.

**To request a rehearing or reconsideration, please send it to one of the addresses indicated below:**

**EMAIL documents to:**  
**EABprocessing@adminlaw.state.la.us**

**FAX documents to:**  
**EAB Section Deputy Clerk**  
**(225) 219-9820**

**MAIL documents to:**  
**DAL – EAB Section**  
**ATTN: EAB Section Deputy Clerk**  
**P. O. Box 44033**  
**Baton Rouge, LA 70804-4033**

If you do not request a rehearing of your decision or your rehearing request is denied, you have the right to seek judicial review in accordance with La. R.S. 42:1142(A)(1), with the time for requesting judicial review calculated pursuant to La. C.C.P. art 5059. To determine your review rights, you should act promptly and seek legal advice.